

Notice of Allowability

Application No.

09/549,342

Examiner

Alana M. Harris, Ph.D.

Applicant(s)

COLPITTS ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to April 29, 2003.
2. ☒ The allowed claim(s) is/are 1,3-5,39 and 41-47.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 03/31/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 02/01/2005
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Alana M. Harris
ALANA M. HARRIS, PH.D.
PRIMARY EXAMINER
8/2/07/2005

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cheryl Becker on February 1, 2005.

2. The application has been amended as follows:

- Claims 2 and 6 have been cancelled.
- In claim 1, line 5 the recitation, --, wherein said at least one EU250 polypeptide (SEQ ID NO: 3) and said at least one polypeptide selected from the group consisting of a BU101 polypeptide (SEQ ID NO: 2) and a TU104 polypeptide (SEQ ID NO: 10) are covalently linked by disulfide bonds.-- was added.
- In claim 4, line 1 the recitation, "claim 4" has been replaced with --claim 3--.
- In claim 5, line 1 the recitation, "claims 1 or 2" has be replaced with —claim 1-
- In claim 5, line 2 the recitation "(SEQUENCE ID NO: 2)" has been replaced with the recitation —SEQ ID NO: 2--.
- In claim 6, line 3 the recitation —(SEQ ID NO: 3)-- has been inserted after the term "polypeptide".

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- In claim 6, line 4 the recitation —SEQ ID NO: 2—has been inserted after the term “polypeptide”.
- In claim 6, line 4 the recitation —SEQ ID NO: 10, wherein said at least one EU250 polypeptide (SEQ IDNO: 3) and said at least one polypeptide selected from the group consisting of a BU101 polypeptide (SEQ ID NO: 2) and a TU104 polypeptide (SEQ ID NO: 10) are covalently linked by disulfide bonds.—was inserted after “TU104 polypeptide”.
- In claim 41, line 5 the recitation —SEQ ID NO: 3— was inserted after the recitation “EU250 polypeptide”.
- In claim 41, line 5 the recitation —SEQ ID NO: 2— was inserted after the recitation “BU101 polypeptide”.
- In claim 41, line 6 the recitation—SEQ ID NO: 10, and—was inserted after the recitation “TU104 polypeptide.
- In claim 43, line 2, the recitation —SEQ ID NO: 3—was inserted after the recitation “EU250 polypeptide”.
- In claim 44, line 3 the recitation —SEQ ID NO: 2— was inserted after the recitation “BU101 polypeptide”.
- In claim 44, line 3 the recitation —SEQ ID NO: 10— was inserted after the recitation “TU104 polypeptide”.
- In claim 45, line 2 the recitation —SEQ ID NO: 3— was inserted after the recitation “EU250 polypeptide”.

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- In claim 45, line 4 the recitation —SEQ ID NO: 2— was inserted after the recitation “BU101 polypeptide”.
- In claim 45, line 4 the recitation —SEQ ID NO: 10— was inserted after the recitation “TU104 polypeptide”.
- In claim 46, line 2 the recitation —SEQ ID NO: 3— was inserted after the recitation “EU250 polypeptide”.
- In claim 47, line 3 the recitation —SEQ ID NO: 2— was inserted after the recitation “BU101 polypeptide”.
- In claim 47, line 3 the recitation —SEQ ID NO: 10— was inserted after the recitation “TU104 polypeptide”.

3. The following is an examiner’s statement of reasons for allowance: The EU250 polypeptide (SEQ ID NO: 3), BU101 polypeptide (SEQ ID NO: 2) and TU104 polypeptide (SEQ ID NO: 10) covalently linked by disulfide bonds is a contribution over the art. The prior art does not teach the covalent linkage of these three polypeptides in a composition.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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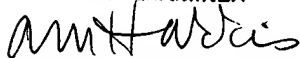
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, Ph.D. whose telephone number is (571) 272-0831. The examiner works a flexible schedule, however she can normally be reached between the hours of 6:30 am to 5:30 pm, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571) 272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALANA M. HARRIS, PH.D.

PRIMARY EXAMINER



Alana M. Harris, Ph.D.

03 February 2005